

**RECORD OF PROCEEDINGS OF THE GOVERNING BODY
CITY OF GARDNER, KANSAS**

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July 19, 2021

The City Council of the City of Gardner, Kansas met in regular session on July 19, 2021, at 7:00 p.m. in the Council Chambers at Gardner City Hall, 120 East Main Street, Gardner, Kansas, with Mayor Steve Shute presiding. Present were Councilmembers Todd Winters, Mark Baldwin, Kacy Deaton, Randy Gregorcyk, and Tory Roberts. City staff present were City Administrator James Pruetting; Deputy City Administrator Amy Nasta; Finance Director Matthew Wolff; Police Chief James Belcher; Utilities Director Gonzalo Garcia; Parks and Recreation Director Jason Bruce; Community Development Director David Knopick; City Engineer Tim McEldowney; City Attorney Ryan Denk; and City Clerk Sharon Rose. Others present included those listed on the sign-in sheet and others who did not sign in.

CALL TO ORDER

There being a quorum of Councilmembers present, Mayor Shute called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

Mayor Shute led those present in the Pledge of Allegiance.

PRESENTATIONS

1. 2021-2022 Revised Budget

Finance Director Matt Wolff summarized the budget calendar. He noted at the June 21 meeting, the governing body provided guidance to notify the county of the intent to maintain or exceed the revenue neutral rate (RNR). Staff asked for informal consensus, but based on new guidance, they need an official action with a motion. The purpose of stating the mill levy now is so that the public can be informed before it is set and can attend the public hearing in September. Wolff provided a summary of new position requests, reclassifications and promotions. The budget also establishes a merit pool of 3%. Staff requested a Vehicle & Equipment Replacement Fund (VERF). The 2021 revised budget and 2022 budget includes placeholders for funding this program. Staff will develop the program to bring to council for approval prior to spending the funds. It doesn't include the Electric utility or Police Department. In June, they received new valuation estimates from county. It indicates a 7% increase for the city. Under the flat mill levy scenario, keeping it the same as last year, the valuation increase would raise property tax on the average single-family home by \$3.26 a month and would generate \$342,000 in additional property tax for. This would be shared across the general fund and the bond & interest fund. A flat mill levy would start with a fund balance of 38%, but ends at the target fund balance of 30% in 2025. With the RNR, the fund balance drops more quickly, ending at 24% in 2025. The fund balance projections include personnel requests and funding for VERF. The current mill rate is 20.665. The RNR would be 19.278. The value of a mill is approximately \$247,000.

PUBLIC HEARINGS

1. Hold a public hearing to consider an amended redevelopment project plan for a redevelopment district within the City (Main Street Market Place Redevelopment District, Project Area 1)

Councilmember Baldwin made a motion to open a public hearing for the purpose of receiving public comments on the consideration of an amended redevelopment project plan for a redevelopment district within the City (Main Street Market Place Redevelopment District, Project Area 1)

Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

Bond Counsel Tyler Ellsworth, Kutak Rock, said the new Freddy's being developed near Price Chopper is on two separate tax parcels. One tax parcel is in the TIF district and TIF Project Area 1, and the other parcel is outside the district project area. At the June 7 meeting, they completed the process of including the second parcel into the TIF district. Tonight they are holding a public hearing and will consider an ordinance amending the TIF project plan to include the second parcel. This will allow convenient administration of the TIF and ensure the property tax increment of both parcels can be used to reimburse TIF-eligible costs.

Councilmember Baldwin made a motion to close the public hearing.

Councilmember Winters Seconded.

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With all of the Councilmembers voting in favor of the motion, the motion carried.

2. Hold a public hearing for the purpose of receiving comments to a request for a Waiver of the Distance Limitation to allow for the sale and consumption of Cereal Malt Beverages for consumption within 200 feet of a school, church or library during the Johnson County Fair

Councilmember Deaton made a motion to open a public hearing for the purpose of receiving public comments to a request for a Waiver of the Distance Limitation to allow for the sale and consumption of Cereal Malt Beverages for consumption within 200 feet of a school, church or library during the Johnson County Fair.

Councilmember Baldwin Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

Danny Burling, 37900 W. 183rd, Edgerton, is with the Johnson County Fair Board and is here for any questions.

Councilmember Deaton made a motion to close the public hearing.

Councilmember Baldwin Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

PUBLIC COMMENTS

Andy Bowne, 17204 Melrose St., Overland Park, came to introduce himself. He serves as president of the Johnson County Community College, beginning just over a year ago. He came to introduce himself and provide an update on the community college. Mr. Bowne shared statistical information about the numbers and types of students and programs they support. This past year, most courses were an online format. There were limited in-person classes, like trades and arts. Moving forward in the fall, they will be more than 50% in-person to serve the students seeking in-person instruction, but they will offer an online environment as an option as well. On June 1, they reopened the Nerman Museum of Contemporary Art. The Midwest Trust Center has also reopened. Summer camps are in session. Tuition remains \$94 per credit hour for Johnson County residents and \$112 for students outside Johnson County. Governor signed the Kansas Promise Scholarship, providing last dollar support for students in high-demand, high wage fields. While it's been a challenging year for all, they appreciate the support and happy to serve Johnson County.

Jason Camis, Gardner Chamber of Commerce, noted JCCC is a great partner with the business community. This Wednesday, there will be an airshow wrap-up meeting. He asked if council had any feedback. They spent locally, shopped locally, which is good for the community. The fair parade is coming up soon. The Chamber annual dinner is at the end of August. Business has been good, and businesses are doing well. The biggest challenge is hiring staff. There is a fundamental shift in work, and the business community will find new ways of operating. He was at the golf course, and business was great. There is discussion of opening 18, so he wanted to share that.

Jennifer Smith, 648 S. Oak, thanked the utilities and communications staff regarding last week's blackout. They kept everyone informed the best they could.

CONSENT AGENDA

- 1. Standing approval of the minutes as written for the regular meeting on July 6, 2021**
- 2. Standing approval of City expenditures prepared June 29, 2021 in the amount of \$1,635.79; July 2, 2021 in the amount of \$1,058,289.76; and July 9, 2021 in the amount of \$304,920.42**
- 3. Consider authorizing the execution of a design services agreement for the 167th Street (Center Street to Moonlight Road) improvements project**

Councilmember Deaton made a motion to approve the Consent Agenda.

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Councilmember Baldwin Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

PLANNING & ZONING CONSENT AGENDA

COMMITTEE RECOMMENDATIONS

OLD BUSINESS

NEW BUSINESS

- 1. Consider an ordinance approving and adopting a second amended redevelopment project plan for a redevelopment district in the City of Gardner, Kansas (Main Street Market Place Redevelopment District, Project Area 1)**

Finance Director Matt Wolff said the purpose of the amendment is to expand the Main Street Market Place TIF Project Plan Area 1 boundaries to include the entirety of the Freddy's property.

Councilmember Baldwin made a motion to adopt an ordinance approving and adopting a second amended redevelopment project plan for a redevelopment district in the City of Gardner, Kansas (Main Street Market Place Redevelopment District, Project Area 1), and amending Ordinance Nos. 2602 and 2685 of the City.

Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2711.

Deaton:	Yes
Winters:	Abstain
Gregorcyk:	Yes
Roberts:	Yes
Baldwin:	Yes

- 2. Consider a request for a Waiver of the Distance Limitation and a "General Retailer" Special Event permit to allow for the sale of cereal malt beverages for consumption within 200 feet of a school, church, or library during the Johnson County Fair**

City Clerk Sharon Rose said this is a housekeeping item pertaining to a public hearing held earlier in the meeting to allow for beer sales at the Johnson County Fair, July 27-July 31, 2021 from 4pm-12am.

Councilmember Gregorcyk asked for confirmation that the Police and Sheriff's Departments will be at the fair. Chief Belcher confirmed.

Councilmember Gregorcyk made a motion to approve a request for a Waiver of the Distance Limitation and a General Retailer Special Event temporary permit to allow for the sale and consumption of Cereal Malt Beverages within 200 feet of a school, church or library during the Johnson County Fair to be held July 27-August 1, 2021 at the Johnson County Fairgrounds, 136 E. Washington St.

Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

- 3. Consider adopting a resolution of the City of Gardner, Kansas, regarding the Governing Body's intent to levy a property tax exceeding the revenue neutral rate (RNR)**

Finance Director Matt Wolff said the League of Kansas Municipalities provided guidance that if the governing body intends to exceed the RNR, it take an official action in the form of a motion or resolution. The proposed resolution declares the City Council's intent to exceed the RNR of 19.278 mills with a proposed mill rate to be determined by

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the governing body. Staff recommends the current mill rate of 20.665. It also sets a public hearing regarding the intention to exceed the RNR for September 7, 2021, at 7:00 p.m., to be held at City Hall, and directs the City Clerk to provide this resolution to the Johnson County Clerk as notice of the City's proposed intent to exceed the RNR.

Councilmember Winters noted the last time they discussed the intent was to keep it the same or raise it and asked if that changed. Director Wolff said this doesn't adopt anything now. It's suggesting a proposed rate, and the public will have an opportunity to comment. The mill will be set when they formally adopt the final budget. City Attorney Denk recommends passing the resolution at the top mill rate, but it may be less when the budget is passed. This action tonight is setting the public hearing and notifying the public they may set the mill levy at this rate.

Councilmember Gregorcyk said homeowners would see an increase of \$3.26 each month, based on what house valuation. Director Wolff said the average house is \$245,000. Gregorcyk said one mill is \$247,000. If they raised it 1.38 mills, it would generate \$342,000, and with current spending, they would exceed. Mayor Shute said they aren't increasing the mill; it would stay the same as this year. Gregorcyk clarified the mill stays flat, but the cost of the mill increases. Shute confirmed. Gregorcyk said they are giving money to redevelopment, but not citizens. Shute said they didn't give Freddy's any money; they are forgoing revenue increases. Wolff noted if they go down to the RNR, there is no exception for abatements. They would be redirecting existing revenues to developments and away from the general fund. If they can't capture new revenue sources from new development, they need commercial.

Winters asked about numbers on raising the mill .75 and what it would do in outlying years. Wolff said staff can work up models, but it will affect future years. Winters said the expenses presented are justified, but consider cuts on the rate and still keep city solvent. There's more development and sales tax revenue coming. Gregorcyk said the idea behind commercial development is to offset the burden on homeowners, but they are increasing the mill to the homeowner by \$3.26 per month. Shute said that's why they have been in favor of bringing commercial to the city. Commercial lowers the tax burden on everyone, especially residents. There is a dollar amount required for city operations, and there is a staff element. Cutting would impact some budget requests. They spent down reserves in recent years. A year ago, there was concern about budget numbers if revenues fell short.

Councilmember Baldwin said staff needs direction. If they do nothing extra, what does that do to the reserves, regardless of the mills? They have no interest in raising mills, but they can't meet the budget requests unless they do. Director Wolff clarified the statement about increasing mills; the current discussion is above the RNR. Gregorcyk suggested options for modeling including raising it above RNR, keep it as is, and reducing from the RNR by 1.5. Shute said staff presented a high and a medium, but not low. Pruetting said it would drop the target fund balance below 20% in outlying years. Wolff said bond-rating agencies recommend a target fund balance of 30%. Staff can model specific scenarios, like lowering it half or one mill. If they choose the RNR, they have a 24% fund balance in 5 years. If they hold a flat mill levy, they are at 30% in 5 years. Anything between the RNR and flat will be between 24-30%. They can adjust the fund balance by taking out some of the budget requests. Gregorcyk suggests modeling high and medium and disregard the low. Roberts said the low would be too dangerous for the fund balance. Deaton said they may consider pay increases to keep good employees, as discussed for lifeguards. If they need to make changes to be adequately staffed, she wants to ensure there's enough. Shute said the fund balance is an important contingency for unanticipated expenses.

Mayor Shute said the resolution informs the public. City Attorney Denk said they need to include the mill they are considering. He confirmed there is consensus that the current flat levy would be the maximum. Shute confirmed. Wolff said it's 20.665. Baldwin talked about guidance for models. Pruetting said staff has guidance and can show several options.

Councilmember Winters made a motion to adopt a resolution of the City of Gardner, Kansas regarding the Governing Body's intent to levy a property tax exceeding the Revenue Neutral Rate

Councilmember Gregorcyk Seconded.

With all of the Councilmembers voting in favor of the motion, the Resolution passed and was assigned Resolution number 2088.

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Winters:	Yes
Gregorcyk:	Yes
Roberts:	Yes
Baldwin:	Yes
Deaton:	Yes

COUNCIL UPDATES

Deputy Administrator Nasta reported the fireworks survey has generated 3100 responses, and will be open until Friday.

Finance Director Wolff said they will start building the draft budget based on the current mill levy, knowing that future direction will come from council if they need to make cuts.

City Clerk Rose said there are five candidates for the CPAC position and asked the interview team to provide times they can conduct interviews. Mayor Shute asked who is on the interview team. Rose said it was Mayor Shute, Council President Winters, and Councilmember Deaton. Shute asked if anyone wanted to change the composition, but there was no interest.

Police Chief Belcher said they have an air show debrief on Wednesday.

Utilities Director Garcia provided updates on Grata. He said the water main along Clare Rd is expected to be done by the end of the month. The force main will be done by the end of the month, and then they will begin the lift station. They have installed 14 power poles. Mayor Shute said staff did a good job working with Evergy to get the power back on last week. Gregorcyk echoed Shute's comments. The way they handled it was appreciated.

Parks Director Bruce said summer sports are ending, but tournaments continue through October. Staff is preparing for fall sports. Staff is discussing talent for next Independence Day. Bruce addressed an email about snow removal. Prior to 2000, Parks removed snow for some downtown businesses. Parks is responsible for city hall parking lot and sidewalks, Cornerstone and assists Public Works. Other cities require business owners to remove snow from their adjacent sidewalks. They are changing to get consistency with snow removal. Roberts noted that other businesses don't get this treatment, but they have done it for 21 years. Hearing it from the city may have been better than through the chamber. Deputy Administrator Nasta noted the 2016 snow removal ordinance. The ordinance began as a recommendation from the ADA committee. It was created to address concerns about snow removal in the downtown area. Committee and council meeting minutes indicate the ordinance focused on timely removal specifically in the downtown area and downtown businesses. One change was the addition of GMC 12.40.015, which states the city will not remove any ice or snow accumulation from any private property. Mayor Shute said part of that was the inconsistency. Roberts said they passed it in 2016, but continued doing it. Nasta said a possible reason was they didn't want to enforce in the middle of winter, and then the staff member who championed it resigned after the ordinance passed. Shute was ex-officio, and people were not shoveling because they thought the city was doing it, so they needed consistent application. Now there is opportunity to notify before winter. Winters understands the practical issue, but they've done this for 21 years. Some small businesses have small budgets. He supports one more year to give them a budget cycle to plan accordingly. They could form a downtown coalition for snow removal. Bruce spoke with the chamber about that. Roberts asked where they put it when they remove it. Pruetting said they put it in a parking spot temporarily, and then street crews remove it. The city's liability insurance provider recommends the city not do it, because they take on liability. Winters supports waiting one more year. Roberts also supports that. The passed the ordinance and then continued 4 more years. Gregorcyk supports extending it a year, and asked what it costs each year. They can calculate it and the businesses can pay the city for the service. Baldwin said there is precedence, but it's a bad precedence. They said they were stopping and didn't stop. They can't cover with the city's insurance; the businesses would be additionally insured. Gregorcyk said employees are already covered. Baldwin said other businesses would want that service. The city contracts out Justice Center snow removal. City employees should be doing that before working for a private business. Shute said parks staff supplementing Public Works shows where priorities are. The road network is increasing, but staff is not. Deaton said they don't do it for citizens or most other businesses. There is time to plan. It's a bad precedent and the city has liability the longer they

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continue. Shute noted a split consensus. Attorney Denk said Gregorcyk has an office in the affected area. Gregorcyk abstained from consensus. Shute noted the ordinance in 2016 is for consistency. They can work with the chamber and businesses on options. Winters said in bulk it might be cheaper. Jason Camis sent the email because the chamber maintains a database and they don't give the information to be respectful of the businesses. Not all businesses downtown are in the chamber. There are logistics concerns. If it's in a parking space, how quickly will city remove it? A day is fine, but longer hurts the business. He will work with businesses. With the Destination Downtown plan, they need to think about these issues. It would add more foot traffic downtown. Sidewalks are property owner responsibility, but what about the city fixing crumbling sidewalks. How do they improve beautification? Shute noted sidewalk maintenance is property owner responsibility, unless they are public sidewalks around city hall. There is a fund for infrastructure improvements for local businesses. Camis work on communication back to the business owners about resources available. Gregorcyk asked what to do with the ordinance. Pruetting said it's an operational item; the ordinance is in place. Bruce will work with the chamber to communicate where to place the snow. Sam Boyajian, 440 Skylark Circle, is concerned about liability. It's city property; if someone is injured, who do they sue? The city did this for 25 years and now they want business owners to maintain city property. How is it enforced? Baldwin said the codes enforcement officer would provide notice to remove in 48 hours. Shute said developers install sidewalks in neighborhoods; it's not city property. It's owned by subdivision or citizens. The jurisdiction has always been the responsibility of homeowner or business owner. Boyajian asked who is legally liable. Denk said adjacent property owner has the obligation to maintain sidewalks according to Kansas statutes. Shute said all maintenance falls to property owner. Boyajian said property owners can do what they want with it. Director Knopick said only within city code. Denk said right-of-way is not outright ownership. The city has an interest in constructing streets, allowing infrastructure, but the property owner retains a residual property interest. Boyajian asked why they brought this up now. Shute said inconsistent application of the ordinance.

Communications Manager Marshall-Oquendo noted the Hillsdale Plant Expansion ribbon cutting is on August 5.

Community Development Director Knopick said there is an EDAC meeting on Wednesday, 6pm at the Justice Center to discuss the Destination Downtown plan. Planning Commission is Monday at 7pm.

City Engineer McEldowney said the contractor on the Madison/Moonlight project is having issues with supply chain with controllers for the signals, and the project is delayed until October. Mayor Shute noted the signals at Cedar Niles and 56 should be online soon. McEldowney said that is waiting on materials as well. Shute noted the I-35 project is closing northbound on-ramp to I-35. McEldowney said it should be a two-day closure.

City Administrator Pruetting said the joint task force with Spring Hill and Edgerton on commercial truck traffic will meet next month.

Gregorcyk asked if there will be a post-event on the power outage? Garcia said the substation that failed is a single breaker. Staff contacted Evergy about making improvements. Gregorcyk expressed interest in the air show meetings. Is the air show confirmed next year? Pruetting said the air show next year over Labor Day is confirmed. They are likely to host in 2023, but beyond that is unknown.

Councilmember Deaton thanked the electric department for getting the power back on. She thanked the Communications Manager for keeping everyone informed.

Councilmember Baldwin thanked the electric department.

Mayor Shute said the utilities and communications staff did good work. There are a lot of things happening around the city, so keep that in mind as people travel.

EXECUTIVE SESSION

ADJOURNMENT

There being no further business to come before the Council, on a motion duly made by Councilmember Deaton and seconded by Councilmember Baldwin the meeting adjourned at 8:37 p.m.

City Clerk